

## **UTILITY PATENT APPLICATION**

### **TITLE OF INVENTION** **METHOD OF AGE VERIFICATION FOR** **ELECTRONIC MEDIA**

**Inventor:** Lawrence G. Walters

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**Patent Attorney:** Paul S. Rooy  
Reg. No. 35,338  
(386)258-5008  
2620 S. Peninsula Dr.  
Daytona Beach, FL 32118

1                   **BACKGROUND OF THE INVENTION**

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3                   **Field of the Invention**

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5     This invention relates to age verifiers, and in particular to method of age verification for electronic  
6     media.

7

8                   **Background of the Invention**

9

10   A variety of internet web sites exist which are not appropriate for access by children. These may  
11   include gambling sites, chat rooms whose subject(s) are not appropriate for children, adult sites,  
12   etc. Many believe it is primarily the responsibility of the parent or guardian to monitor the type of  
13   web sites and television a minor is exposed to. However, it would be desirable to provide an  
14   additional mechanism to prevent minors from accessing inappropriate web sites.

15

16   A variety of age verification systems have been used, such as credit card-based membership  
17   subscriptions, age verification system ("AVS") firewalls, and the now discredited "I'm over 18, let  
18   me in" button. Although the Child Online Protection Act ("COPA") (at last notice declared  
19   unconstitutional on First Amendment grounds) creates a "safe harbor" under which webmasters  
20   can rely upon the AVS or credit card solution as a defense to any claim that they are providing  
21   harmful materials to minors, no court has recognized the legal validity of a simple click-through  
22   screen where the user asserts that he or she is an adult.

23

1 There are a number of problems associated with these proposed age verification mechanisms.  
2 First, while implementation of credit card or AVS screens to block material that is harmful to  
3 minors may be somewhat effective, its consequential effects do not pass constitutional muster.  
4 Initially, users may be less likely to access protected speech if they are required to provide  
5 personal information, including names, addresses and credit card numbers. The Third Circuit  
6 Court of Appeals specifically found that Web users are simply unwilling to provide personal  
7 information in order to gain access to sensitive or controversial content.

8

9 Secondly, a distinct set of constitutional concerns are presented where individuals are required to  
10 pay even small amounts of money for access to protected communications. Finally, aside from  
11 the constitutional concerns, many credit card issuers object to the use of their credit cards for age  
12 verification purposes. Thus, given the substantial lobbying power of the merchant banks, it is  
13 anticipated that any new legislation proposed by Congress will likely not include the credit card  
14 option as an acceptable method of age verification.

15

16 Despite the fact that COPA has been enjoined on multiple occasions, it is still advisable for adult  
17 webmasters to comply with the dictates of this law. First, the government has never promised that  
18 it will not attempt to retroactively prosecute those who are not in compliance, if the law is  
19 ultimately upheld by the United States Supreme Court. Secondly, it is simply the right thing to do  
20 to keep minors from accessing adult materials from a legal and moral standpoint.

21

22 Importantly, a number of states have passed laws prohibiting businesses from providing adult  
23 materials to minors, and many of these laws appear to apply to online communications. Although

1 some such laws have been declared unconstitutional, there is no guarantee that a criminal case  
2 won't be filed against an adult webmaster that is providing adult materials to minors without any  
3 form of age verification. Furthermore, although the issue of harmful materials is completely  
4 distinct from that of obscenity, obscenity cases become much harder to defend if the government  
5 can show that the allegedly obscene materials were also available to minors.

6

7 So what is a webmaster to do? To start out with, it should be noted that the COPA law  
8 recognizes several "affirmative defenses" to prosecution for providing harmful materials to  
9 minors. COPA's affirmative defense provision reads as follows:

10 Defense. It is an affirmative defense to prosecution under this section that the defendant, in good  
11 faith, has restricted access by minors to material that is harmful to minors –

12 (A) by requiring use of a credit card, debit account, adult access code, or adult personal  
13 identification number;

14 (B) by accepting a digital certificate that verifies age; or

15 (C) *by any other reasonable measures that are feasible under available technology.* [Emphasis  
16 added.]

17

18 It is the third COPA affirmative defense that forms part of the inspiration for the instant invention.  
19 Similarly, many states' laws provide a defense to this type of charge if the business uses "good faith  
20 efforts" to keep adult materials away from minors, such as placing adult magazines behind a store  
21 clerk's counter, out of reach of children, and blocking the front covers.

22

1 So what are acceptable "good faith" efforts to verify age without requiring personal identification  
2 and/or credit card payments? A solution embodied in the instant invention utilizes both the  
3 Unsworn Declarations Act, 28 U.S.C. §1746, and the Electronic Signatures Act, 15 U.S.C. §  
4 7000, et seq., to allow the user to certify his or her date of birth and to provide that information  
5 under penalty of perjury, before gaining access to inappropriate materials.

6

7 The mechanism taught in the instant disclosure automatically checks the current date on the  
8 server, to determine if the individual user is over the minimum appropriate age on that date, based  
9 on the birth date provided under penalties of perjury. If yes, the user can gain access to the free  
10 areas of the web site, without becoming a member, paying any money, or providing credit card  
11 information. The effectiveness of the instant procedure depends on the use of the specific verified  
12 declaration language under federal law, and reference to the Electronic Signatures Act, allowing  
13 the user to provide a statement made subject to the penalties of perjury before gaining access to  
14 the site.

15

16 From a legal standpoint, this procedure is superior compared to simply clicking "I'm over 18"  
17 which has become something of a national joke in the courts, and will likely not provide an  
18 effective argument that the site has made a good faith effort to exclude minors from the free areas.  
19 Requiring the user to verify his or her birth date accomplishes a number of things. First, in the  
20 event a minor submits a false birth date to gain access to the site, such misrepresentation will  
21 constitute an act of perjury, under federal law. The courts are less sympathetic to the claims of  
22 minors who commit felonies to obtain access to adult materials. When weighing the relative

1 equities between a webmaster attempting to exclude minors, and a minor committing perjury, it is  
2 hoped that the courts will be more sympathetic to the former.  
3

4 This situation is akin to the store clerk who is provided a fake driver's license by a minor in the  
5 attempt to purchase tobacco products. However, in this case, the information is being provided  
6 under oath.  
7

8 A second advantage of the instant mechanism is the fact that, other than the birth date, no  
9 identifying information is being sought from the user. Some users may wish to remain  
10 anonymous, and these users will not be significantly deterred by providing a birth date, especially  
11 when the user's corresponding address or credit card number is not also required. This solution  
12 may address the constitutional concerns noted by the Third Circuit Court of Appeal where users  
13 are required to pay or provide personal identifying information before gaining access to adult  
14 materials.  
15

16 **COPYRIGHTS AND DISCLAIMERS:** The birth check language and computer script taught  
17 herein are both subject to copyright protection. All rights are reserved, and no use whatsoever  
18 thereof is permitted without the permission of the copyright owner. The instant mechanism is an  
19 innovative solution, which has not been tested in the courts. Therefore, it is uncertain how any  
20 particular court will react to the instant mechanism.

1                   **SUMMARY OF THE INVENTION**

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3     Accordingly, it is an object of the present invention to provide a method of age verification for  
4     electronic media which has the effect of allowing the user to certify his or her date of birth and to  
5     provide that information under penalty of perjury, before gaining access to inappropriate  
6     materials. Design steps allowing this object to be accomplished include displaying a penalty  
7     statement and an E-Sign Act statement on a gateway page on a user's computer, entering the  
8     user's date of birth in a date of birth block on the gateway page, and entering the user's name in a  
9     signature block on the gateway page. Advantages associated with the accomplishment of this  
10    object include greater certainty of a user's age prior to granting the user access to a protected  
11    site, and reduced likelihood that inappropriately aged users will gain access to the site.

12

13    It is another object of the present invention to provide a method of age verification for electronic  
14    media which provides for user acceptance of site terms and conditions at the same time that the  
15    user provides his or her name and date of birth. Design steps allowing this object to be  
16    accomplished include displaying a terms and conditions statement and a terms and conditions link  
17    on the gateway page on a user's computer. Benefits associated with the accomplishment of this  
18    object include increased efficiency in the use of a user's time, and increased likelihood that a user  
19    will progress to the protected pages of the site.

20

21    It is still another object of this invention to provide a method of age verification for electronic  
22    media which permits a prospective user to voluntarily leave the gateway page. Design features  
23    enabling the accomplishment of this object include an exit button on the gateway page. An

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1 advantage associated with the realization of this object is increased user convenience, and greater  
2 likelihood that inappropriately aged users will not gain access to a protected site.

3

4 It is yet another object of this invention to provide a method of age verification for electronic  
5 media which provides a means to preserve a record of attempted accesses. A design feature  
6 enabling the accomplishment of this object includes the step of storing in memory an access  
7 attempts record containing prospective users' names, dates of birth, times and dates of attempted  
8 access, and the IP addresses from which access was attempted. Advantages associated with the  
9 realization of this object include the ability to preserve important evidence bearing on ages and  
10 identities of prospective user seeking access, in order to help refute allegations that  
11 inappropriately aged individuals gained access.

1           **BRIEF DESCRIPTION OF THE DRAWINGS**

2

3       The invention, together with the other objects, features, aspects and advantages thereof will be  
4       more clearly understood from the following in conjunction with the accompanying drawings.

5

6       Four sheets of drawings are provided. Sheet one contains figure 1. Sheet two contains figure 2.  
7       Sheet three contains figure 3. Sheet four contains figure 4.

8

9       Figure 1 is a front view of a blank gateway page.

10

11      Figure 2 is a front view of a gateway page with date of birth and signature blocks completed.

12

13      Figure 3 is a front view of an access denied page.

14

15      Figure 4 is a front view of an access approved page.

**DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT**

Figure 1 is a front view of a blank gateway page 2, which the instant invention teaches appears on a user's computer screen when the user desires to gain access to an internet web site protected by gateway page 2. Gateway page 2 may comprise one or more of the following: warning 4, age limitation statement 6, terms and conditions statement 7, link to terms and conditions 9, completion instructions 8, penalty statement 10, E-Sign Act statement 12, date of birth block 14, signature block 16, activation button 18, and exit button 20.

9  
10 Warning 4 provides notice to prospective users that materials on the site may not be appropriate for all ages, and age limitation statement 6 specifies the required minimum age for entry.  
11 Completion instructions 8 advise users that they must certify their date of birth under penalty of  
12 perjury to enter the site.

14  
15 Terms and conditions statement 7 specifies that each prospective user agrees to the site terms and  
16 conditions by entering the site. Thus, at the same time that each user provides date of birth 15  
17 and name 17 information, each user also agrees to the site terms and conditions. This  
18 consolidation of steps saves user time, while ensuring that each user entering the site has agreed  
19 to the site terms and conditions. Terms and conditions link 9 provides access to the site terms and  
20 conditions for the users' reference.

21  
22 Penalty statement 10 must be agreed to by users wishing to access the site, and specifies that the  
23 birth date affirmation made by the subscribing user is made under penalty of perjury. Each user

1 must also agree to E-Sign Act Statement 12, which provides that the instant age verification  
2 method is governed by the Electronic Signatures in Global and National Commerce Act. This  
3 utilization of both the Unsworn Declarations Act, 28 U.S.C. §1746, and the Electronic Signatures  
4 Act, 15 U.S.C. § 7000, et seq. has the effect of allowing the user to certify his or her date of birth  
5 and to provide that information under penalty of perjury, before gaining access to inappropriate  
6 materials.

7

8 Each potential site user is required to type his or her date of birth 15 into date of birth block 14,  
9 and his or her name 17 into signature block 16 as illustrated in figure 2, and then click on  
10 activation button 18 for access to the site. Software associated with gateway page 2 then  
11 calculates the prospective user's age by determining the difference between the current date and  
12 the user's date of birth.

13

14 If the calculated age does not equal or exceed the threshold age required to access the site, an  
15 access denied page 30 will appear, with an associated access denied message 32, as depicted in  
16 figure 3. Typical threshold ages may be 18 years old, 21 years old, etc.

17

18 If the calculated age equals or exceeds the threshold age required to access the site, protected  
19 inner page 40 will appear, with associated protected content 42, as depicted in figure 4.

20

21 Exit button 20 permits a prospective user to voluntarily leave the gateway page, by clicking on  
22 exit button 20. Exit button 20 increases user convenience and the likelihood that inappropriately  
23 aged users will not gain access to a protected site.

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2 The software associated with gateway page 2 stores in memory an access attempts record  
3 containing data including the time, date, name 17, date of birth 15 and IP address of every access  
4 attempt made. This data contained in the access attempts record could provide important  
5 evidence bearing on the identity, and thus age, of every prospective user seeking access.

6

7 For instance, if allegations are made that inappropriately aged individuals are accessing a certain  
8 site, the access attempts record could be referred to in order to determine the name 17, asserted  
9 date of birth 15, and IP address of an individual alleged to be of inappropriate age. The access  
10 attempts record would also provide the times and dates of attempted access by such individual. If  
11 it turns out the individual is a 45 year old male, who was located at the physical IP address at the  
12 time of the incident(s), such data could provide valuable evidence that no inappropriately aged  
13 individual passed through gateway page 2 at the time(s) alleged.

14

15 Thus, the instant method comprises the following steps:

16

- 17 A. Displaying a gateway page;
- 18 B. Displaying a terms and conditions statement on the gateway page;
- 19 C. Displaying completion instructions on the gateway page;
- 20 D. Displaying a penalty statement on the gateway page;
- 21 E. Displaying an E-Sign Act statement on the gateway page;
- 22 F. Entering a date of birth in a date of birth block on the gateway page;
- 23 G. Entering a name in a signature block on the gateway page;

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- 1 H. Clicking on an activation button on the gateway page;
- 2 I. Calculating a prospective user's age by determining a difference between a current dat and  
3 the user's date of birth.

4

- 5 The instant method may include the further steps of displaying an access denied page if the  
6 calculated age does not equal or exceed a threshold age, or displaying a protected inner page of  
7 the calculated age equals or exceeds a threshold age.

8

- 9 The instant method may include the further steps of storing in memory an access attempts record  
10 containing data including the time, date, name 17, date of birth 15 and IP address of every access  
11 attempt made.

12

- 13 While a preferred embodiment of the invention has been illustrated herein, it is to be understood  
14 that changes and variations may be made by those skilled in the art without departing from the  
15 spirit of the appending claims.

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1

**DRAWING ITEM INDEX**

2

- 3 2 gateway page
- 4 4 warning
- 5 6 age limitation statement
- 6 7 terms and conditions statement
- 7 8 completion instructions
- 8 9 terms and conditions link
- 9 10 penalty statement
- 10 12 E-Sign Act statement
- 11 14 date of birth block
- 12 15 date of birth
- 13 16 signature block
- 14 17 name
- 15 18 activation button
- 16 20 exit button
- 17 30 access denied page
- 18 32 access denied message
- 19 40 protected inner page
- 20 42 protected content